

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

LEITYA T. HARRIS,)
Plaintiff,)
v.) Civil Action No. 1:21-cv-512 (RDA/TCB)
KILOLO KIJAKAZI, *Acting Commissioner of*)
*the Social Security Administration,*¹)
Defendant.)

)

REPORT AND RECOMMENDATION

This matter comes before the Court on Defendant Kilolo Kijakazi’s (“Defendant”) Consent Motion to Remand. (Dkt. 24.) For the reasons articulated below, pursuant to 28 U.S.C. § 636(b)(1)(B), the undersigned U.S. Magistrate Judge recommends that the Court GRANT Defendant’s motion and remand this matter back to the Social Security Administration, DENY AS MOOT Plaintiff Leitya T. Harris’ (“Plaintiff”) motion for summary judgment (Dkt. 21), DISMISS this matter, and direct the Clerk of the Court to enter final judgment under Federal Rule of Civil Procedure 58.

I. RELEVANT BACKGROUND

Plaintiff filed a complaint in this Court on October 23, 2020 pursuant to 42 U.S.C. § 405(g) seeking review of the Social Security Administration’s final decision denying her Disability Insurance Benefits (“DIB”). (*See* Dkt. 1.) Defendant filed an answer and the certified

¹ Plaintiff initially commenced this action against the former Commissioner of Social Security Andrew M. Saul. However, pursuant to Federal Rule of Civil Procedure 25(d), Kilolo Kijakazi is automatically substituted as the current acting commissioner.

administrative record on September 7, 2021. (Dkts. 15, 16.) That same day, upon the parties' joint motion, the Court set a briefing schedule for the parties' respective motions for summary judgment. Plaintiff filed her Motion for Summary Judgment and supporting memorandum in accordance with the Court's schedule and order granting an extension of time on October 25, 2021. (Dkts. 18, 20, 21.) Defendant filed the instant joint motion on December 1, 2021. (Dkt. 24.) The joint motion explains that “[u]pon further review, Defendant has determined that additional evaluation Plaintiff's claim is warranted.” (Dkt. 24 ¶ 2.) Additionally, Defendant provided that: “On remand, the Commissioner, through the Appeals Council, will refer the Plaintiff's case to an administrative law judge for further proceedings,” “including offering Plaintiff a new hearing.” (Dkts. 24 ¶ 3, 24-1.)

The Honorable District Judge Rossie D. Alston referred this matter to the undersigned on December 3, 2021. Accordingly, the undersigned issues this report and recommendation.

II. RECOMMENDATION

Upon review of the filings in this case and the relevant Social Security regulations, the undersigned finds that this case should be remanded back to the Social Security Administration. “The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.” 42 U.S.C. § 405(g).

Here, the parties agree that remand is appropriate. The undersigned U.S. Magistrate Judge therefore recommends that the Court enter an order (1) GRANTING Defendant's joint motion (Dkt. 24); (2) DENYING AS MOOT Plaintiff's motion for summary judgment (Dkt. 21); (3) DISMISSING this matter; and (4) directing the Clerk of the Court to enter final judgment under Federal Rule of Civil Procedure 58.

III. NOTICE

The parties are notified that objections to these proposed findings of fact and recommendations must be filed within 14 days of service of this Report and Recommendation in accordance with 28 U.S.C. § 636(b)(1)(C). A failure to file timely objections waives appellate review of the substance of these proposed findings of fact and recommendations and waives appellate review of any judgment or decision based on these proposed findings of fact and recommendations.



/s/

THERESA CARROLL BUCHANAN
UNITED STATES MAGISTRATE JUDGE

December 6, 2021
Alexandria, Virginia